

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ARMANDO HERNANDEZ MARTINEZ,

Petitioner,

V.

NEIL CLARK,

Respondent.

CASE NO. C07-1497-RSM-JPD

ORDER GRANTING RESPONDENT'S
MOTION FOR EXTENSION OF TIME
AND RE-NOTING PETITIONER'S
MOTION FOR RELEASE ON BOND

On September 25, 2007, petitioner, proceeding pro se, filed a Petition for Writ of

16 Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging the lawfulness of his detention by the
17 U.S. Immigration and Customs Enforcement (“ICE”).¹ (Dkt. #6). Petitioner requests that he be
18 released from custody, contending that he is a native Indian and a United States citizen. *Id.*² On

¹Petitioner initially failed to pay the \$5.00 filing fee or submit an application for *In Forma Pauperis* (“IFP”) status. (Dkt. #3). Petitioner subsequently corrected the IFP deficiency on October 9, 2007, and respondent was served with the habeas petition on October 12, 2007. (Dkts. #8 and #9).

²Petitioner indicates that he has filed a Petition for Review and a stay of removal with the Ninth Circuit Court of Appeals. (Dkt. #6).

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1 November 8, 2007, petitioner filed a “Motion for Release on Bond Pending Adjudication and
2 Request for Stay.” (Dkt. #11). The habeas petition and the motion seek the same relief – release
3 from detention.

4 On November 13, 2007, respondent filed the instant “Motion for Extension of Time in
5 which to file Return,” arguing that “ICE requires additional time to investigate Petitioner’s
6 serious, though unsupported, allegations.” (Dkt. #12 at 1). Respondent asserts that petitioner
7 has used or has been known by over eleven names, and that while petitioner alleges that he is a
8 U.S. citizen, it appears from all available information that he is a native and citizen of Mexico.
9 *Id.* Respondent further requests that the Court re-note petitioner’s motion for release for
10 December 14, 2007, so that respondent can file a response to petitioner’s motion at the same
11 time as his return to petitioner’s habeas petition.
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13 Upon review of the record, the Court does hereby ORDER:

14 (1) Respondent’s request for an extension of time (Dkt. #12) is GRANTED. Petitioner
15 requests in his habeas petition (Dkt. #6) and motion for release (Dkt. #11) that the Court order
16 his immediate release from detention. While petitioner raises serious questions in his habeas
17 petition – that he is a United States citizen and that he is being unlawfully detained by ICE – he
18 provides no documentation in support of his claims. Moreover, petitioner has used or been
19 known by numerous names in his dealings with ICE, requiring additional time for respondent to
20 “make a return certifying the true cause of the detention.” *See* 28 U.S.C. § 2243. Accordingly,
21 the Court finds that respondent’s request for an extension of time is warranted.
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23 (2) Respondent shall have until December 10, 2007, in which to serve and file his Return
24 to the Habeas Petition.
25

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1 (3) The Clerk is directed to RE-NOTE petitioner's motion for release (Dkt. #11) on the
2 Court's calendar for consideration on December 14, 2007.

3 (4) The Clerk is directed to forward a copy of this Order to petitioner, all counsel of
4 record, and to the Honorable Ricardo S. Martinez.

5 DATED this 20th day of November, 2007.

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8 JAMES P. DONOHUE
9 United States Magistrate Judge

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